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In re Application of :
Robert John D'Amato et al :
Serial No.: 09/780,650 : PETITION DECISION
Filed: February 12, 2001 :
Attorney Docket No.: 43170-253692 :

This is in response to the petition under 37 CFR 1.181, filed May 24, 2004, for withdrawal of abandonment of the above identified application based on failure to receive an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability to applicants on October 17, 2003, setting a three month statutory period for payment of the Issue Fee. Upon failure to receive the Issue Fee, the application became technically abandoned on January 21, 2004 (January 17, 2004 being a Saturday of a holiday weekend), however no Notice of Abandonment was mailed to applicants. Applicants belatedly learned of the issuance of the Notice of Allowance and Issue Fee Due and obtained a copy thereof. Applicants state that the original Notices were not received and provide statements and copies of docket records establishing that the Notices were not received. In view of the evidence presented the Abandoned status is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

As applicants have obtained a copy of the Notice of Allowance and Issue Fee Due and have paid the Issue Fee the application is in condition for publication as a patent. It is, however, noted that applicants have concurrently filed a petition for granting of a delayed priority claim and RCE papers with a petition to withdraw the application from issue. These papers will be processed by the Office of Petitions in due course.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0591 or by facsimile sent to the general Office facsimile number, 703-872-9306.


Bruce M. Kishiuk
Director, Technology Center 1600